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L A W S of M A R Y L A N D.

C H A P. XX.

An ACT for the better security of the government.

Preamble.

WHEREAS, in every free state, allegiance and protection are reciprocal, and no man is entitled to the benefit of the one, who refuses to yield the other ; and as every inhabitant of this state enjoys the protection and benefit of the government and laws thereof, and it is reasonable that every person should give testimony of his attachment and fidelity to this state, and the present government thereof, as now established,

Every free male person to take the oath of fidelity, &c.

II. *Be it enacted, by the general assembly of Maryland,* That every free male person within this state, above eighteen years of age, unless a quaker, menonist or dunker, shall, on or before the first day of March next, take, repeat and subscribe, the oath of fidelity and support to this state, contained in the act, entitled, An act to punish certain crimes and misdemeanors, and to prevent the growth of toryism ; and every free male quaker, menonist or dunker, within this state, above eighteen years of age, shall, on or before the first day of March next, solemnly, sincerely and truly declare and affirm, in the words of the said oath, and thereto subscribe his name.

Before some magistrate ;

III. *And be it enacted,* That the said oath and affirmation shall be taken within the time aforesaid, before some magistrate of the county or city where the person who takes such oath or affirmation resides.

Who is to keep two books, &c.

IV. *And be it enacted,* That every magistrate aforesaid, shall keep two paper books, one for all persons who shall take the oath aforesaid, and the other for all persons who shall take the affirmation aforesaid, prefixing to one of the said books the oath aforesaid, and to the other the affirmation aforesaid. And all persons required by this act to take the said oath, or affirmation, shall, after taking the same, subscribe his name thereto, in such book as contains the oath, if such person takes the said oath, or in such book as contains the affirmation, if such person takes the said affirmation ; and if such person cannot write his name, he shall enter his mark, and the magistrate shall thereto set his name.

Magistrates to make out copies of their books, &c.

V. *And, for the ascertaining such as shall neglect to take the said oath, or affirmation, and that there may be a record evidence of such neglect, Be it enacted,* That every magistrate aforesaid shall make out fair copies of his said books, with all convenient dispatch, after the aforesaid first day of March, and the same transmit to the governor and council of this state, and shall deliver the original books to his next county court which shall happen after the said first day of March next, there to be recorded.

And to attend one day in every week, &c.

VI. *And be it enacted,* That every magistrate of the county shall, and he is hereby enjoined and required, to attend one day in every week, until the said first day of March next, at the most convenient places in his neighbourhood, with his books aforesaid, for the purpose of administering the oath, or affirmation, aforesaid, and for the purpose of having the same subscribed to, in manner and form aforesaid ; and the said justices shall give public notice, by advertisement, of such places and days of meeting as aforesaid.

Constables to make out a list of inhabitants, &c.

VII. *And be it enacted,* That every constable of every hundred shall, before the first day of March next, make out a fair alphabetical list of all the free male inhabitants, residents in his hundred, and not out of the state, or hereafter not exempted from taking the said oath, or affirmation, who shall be of the age of eighteen years, on or before the aforesaid first day of March, and a copy of the said list, with all convenient dispatch, transmit to the governor and council, and the original list shall deliver to the next county court of his county which shall happen after the aforesaid first day of March next, there to be recorded.

Allowance to magistrates, &c.

VIII. *And be it enacted,* That every magistrate shall be allowed in the county levy, the same *per diem* allowance, for every day he shall attend, in pursuance of

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of this act, to take the oath or affirmation aforesaid, as is allowed the justices for their attendance in the county court; and the several county courts are hereby empowered and directed to make the several constables in their counties such allowance for their trouble in making and returning their lists aforesaid, in their next county levy, as to them shall appear reasonable.

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IX. And be it enacted, That if any magistrate shall neglect to keep such books, or shall neglect to make copies and transmit them to the governor and council, or shall neglect to deliver the original books, as respectively required by this act, he shall forfeit and pay the sum of five hundred pounds current money; and every constable who shall neglect to make out the list, or neglect to transmit the copy of such list, or shall neglect to return the original list, as respectively required by this act, shall forfeit and pay the sum of two hundred pounds current money.

Penalty on
neglect of du-
ty.

X. And be it enacted, That every person, required by this act to take the oath or affirmation aforesaid, and whose name or mark shall not appear on one of the magistrates books aforesaid, in manner and form prescribed as aforesaid, shall, for and during the life of such person, in all public and county assessments, pay a tax treble the tax which by such public or county assessments shall be imposed upon every hundred pounds worth of real or personal property within this state, and so *pro rata*; which said tax shall be paid, collected and levied, as the said public and county taxes are respectively paid, collected and levied.

Persons neg-
lecting to take
the oath to
pay treble
taxes, &c.

XI. And be it enacted, That the worth in real and personal property, of every such person chargeable as aforesaid with the said treble tax, shall be deemed and taken for and during the continuance of the said treble tax, of such amount as shall be ascertained on the final assessment and valuation of all property within this state, which shall be made on or before the first day of March next.

How the
worth of their
property is to
be ascertain-
ed.

XII. Provided nevertheless, If such worth shall, on any future public assessment, be augmented, the treble tax shall be rated on that worth so augmented.

Provido.

XIII. And be it enacted, That the said treble tax, rateable according to the amount of such worth as aforesaid, shall be and is hereby imposed as a charge and burthen on all such real and personal estate of such person, chargeable with the said treble tax, as such person was possessed of at the time of the valuation of his property by the assessors, under the act, entitled, An act to assess and impose an equal tax on all property within this state.

Treble tax to
be imposed as
a charge, &c.

XIV. Provided nevertheless, and be it enacted, That no such property shall be chargeable with the said treble tax which has been *bonâ fide* disposed of after such valuation aforesaid, and before the making of this act, and that no such property *bonâ fide* disposed of, after the making of this act, shall be subject to a distress for the said treble tax, before default of payment of the said tax by the person chargeable with the same, or default of property in his possession whereby the said tax may be levied.

Provido.

XV. And, whereas persons chargeable with the said treble tax may have property in different counties in this state: And whereas it is necessary that the commissioners should be informed of all persons so chargeable, Be it enacted, That the governor and the council shall annually, before the first day of May, cause a list to be made out of all free male persons, of the age of eighteen years, whose names or marks, by comparing the constables lists aforesaid with the magistrates books aforesaid, shall not appear in any of the magistrates books aforesaid, and of all persons any otherwise ascertained to be chargeable with the said treble tax; and the said list shall annually, before the first day of May, cause to be delivered to the commissioners of every county in this state, who shall, on receipt thereof, communicate the same to the collectors respectively; and the said collectors are hereby respectively enjoined to levy and collect the said treble tax, on, of and from, all such persons, according to the value of such persons property in their respective counties.

Governor and
council to
cause a list to
be made, &c.

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Persons
chargeable
with treble
tax disabled
from com-
mencing suit,
&c.

XVI. And be it enacted, That every person chargeable with the treble tax as aforesaid, shall be disabled from commencing or prosecuting any suit in any court of this state, for the recovery of any debt or damages, for any money or tobacco due or owing to him in his own right, or from exercising and practising the trade of merchandise, unless, previous to such suit or merchandising, he shall take the oath or affirmation as aforesaid; and in case of neglect thereof, the court before whom such suit shall be brought shall, *ex officio*, enter judgment of nonsuit; and if any such person shall exercise and practise the trade of merchandise, without previously taking the oath or affirmation as aforesaid, he shall, for every such offence, forfeit and pay five pounds for every hundred pounds of property such person shall be deemed worth on the public assessment of all property within this state.

And practi-
fing the law,
&c.

XVII. And be it enacted, That every person, chargeable with the treble tax aforesaid, shall be for ever disabled and rendered incapable to practise the law, physic or surgery, or the art of an apothecary, or to preach or teach the gospel, or to teach in public or private schools, or to hold or exercise, within this state, any office of profit or trust, civil or military, or to vote at any election of electors of senators, or of delegates to the house of delegates; and if any such person shall offend against this act, in any of the particulars above specified, he shall, for every such offence, forfeit and pay five pounds for every hundred pounds of property he shall be deemed worth on the public assessment of all property within this state.

Provido.

XVIII. Provided nevertheless, and be it enacted, That if any person, required by this act to take the oath or affirmation aforesaid, and whose name or mark shall not be found subscribed as aforesaid, shall make it appear to the governor and council, within six weeks after the first day of March next, or to the county court of the county where such person resides, which shall first happen after the said first day of March next, that such person is not a person offending against this act, and, if of the age of eighteen years, at the time of such application to the governor and council, or county court, as aforesaid, shall take the said oath or affirmation (as the case may be), such person shall not be subject to the said treble tax and disabilities aforesaid; and, on acquittal by the said governor and council, or by the said county court, such person shall obtain a certificate thereof, and be entitled to have his name enrolled in one of the magistrates books as aforesaid; and if such person has been set down on the list chargeable with the treble tax and transmitted to the commissioners, the said commissioners are hereby enjoined, on such persons producing the certificate aforesaid, to correct the said list, and give notice thereof to the collector.

Persons not
having signed
the association
and fled, &c.
liable to tre-
ble tax, &c.

XIX. And be it enacted, That all persons, not having signed the association, who have fled from this state since the fourteenth day of August, seventeen hundred and seventy-five, to avoid taking an active part in the defence thereof, and have crossed the seas, and who shall not return on or before the first day of September, seventeen hundred and seventy-nine, and take the oath or affirmation as aforesaid, within one month after their return to this state, shall be liable to the treble tax, and to the disabilities imposed by this act.

Provido.

XX. Provided nevertheless, That nothing in this act contained shall extend, or be construed to extend, to any persons who, having fled from this state as aforesaid, shall, at any time since their flight, have taken an active part against the same, or against the United States, by adhering to the British army or navy.

Justices to in-
quire after
persons who
have fled, &c.

XXI. And, for the better ascertaining what persons have fled from this state as aforesaid, Be it enacted, That the justices of the several county courts shall annually, at their respective August courts, make diligent inquiry after every person who has fled from his county as aforesaid, or who, returning after the first day of March next, shall neglect to take the oath or affirmation aforesaid, within the time limited as aforesaid, and the said justices shall enter his name on the minutes of the proceedings of their court at their then sitting, and, from the said minutes, shall

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shall make a fair and alphabetical list of the names of all such persons as aforesaid, and transmit the same to the governor and council. C H A P. XX.

XXII. **And**, whereas many of the male subjects of this state, above the age of eighteen years, are out of this state on some lawful purposes in some of the neighbouring states, or in parts beyond the seas, **Be it enacted**, That no such person shall be affected by any matter or thing contained in this act, unless such person, for three months after his return, shall wilfully neglect to take the said oath, or affirmation, (as the case may be) before the governor and council, or some magistrate of the county or city where he resides. Persons absent on lawful business not affected by this act. &c.

XXIII. **And**, in order to discover whether the persons aforesaid, absent from this state on or before the first day of March next, and returning after that day, have taken the oath or affirmation aforesaid, within the time limited as aforesaid, **Be it enacted**, That the justices of the several county courts shall annually, at their respective August courts, make diligent inquiry after all such persons returning as aforesaid; and omitting to take the oath or affirmation aforesaid within the time limited as aforesaid, and shall enter their names on the minutes of the proceedings of their court, and fair and alphabetical lists make thereof; and transmit them to the governor and council. Justices to make inquiry after persons returning, &c.

XXIV. **And**, whereas all persons in the regular service of this state, or of the United States, or of any of them, have already given, by such service, sufficient proof of their attachment to the freedom and independence thereof, **Be it enacted**, That no general, field, commissioned, warrant, or staff officer, or other officer; nor any soldier or person in the regular service of this state, or the United States, or any of them, shall be affected by any matter or thing herein contained. Officers, &c. not affected by this act.

XXV. **And**, to prevent this state from becoming an asylum for the distressed fugitives from other states, **Be it enacted**, That the governor and council, or any magistrate of the county, on their or his own knowledge, or on information, that any male person above the age of eighteen years, belonging to any of the United States, has taken shelter in this state, shall immediately cause such person to be apprehended and examined, and if such person cannot, upon such examination, produce a certificate of his having taken the oath or affirmation prescribed by his state, or if such person has not taken the oath, or affirmation, (as the case may be) which has been prescribed by this state, and refuses to take the said oath or affirmation, and shall also refuse to take the following oath, or affirmation if a quaker, menonist or dunker, viz. "I, A. B. do swear, or solemnly affirm, (if a quaker, menonist or dunker,) that I do not hold myself bound to yield any allegiance or obedience to the king of Great-Britain, his heirs or successors, and that I will be true and faithful to the United States of America, and will, to the utmost of my power, support, maintain and defend, the freedom and independence thereof," the governor and council, or the said magistrate, may commit such person to the public gaol, or the governor and council may remand such person back to his own state, and in such manner as they may adjudge the most expedient; and if such person hath property in this state, he shall be subject to the treble tax aforesaid, in manner and form prescribed as aforesaid; and such person shall also be subject to all the disabilities imposed by this act; and upon every commitment of such person by any magistrate as aforesaid; the said magistrate shall immediately give notice thereof to the said governor and council. Persons taking shelter in this state to be apprehended, &c.

XXVI. IT being represented to this general assembly, that many persons who gave bonds to the presidents of the late conventions, councils of safety, and to the committees of observation, for their good behaviour and fidelity to this state, have been guilty of breaches, **Be it enacted**, That all bonds, taken in the name of any president of convention, council of safety, or in the name or names of any other person or persons, for the use of this state, be transmitted as soon as possible to the clerk of the county where the principal and the security reside, or if the principal has departed this state, to the clerk of the county where the security may reside, and thereupon *scire facias* shall immediately issue in the name of this state against Bonds to be transmitted to the clerk, &c.

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against the obligors in the bonds, alleging a breach of every part of the condition, and requiring the defendants to shew cause why judgment and execution should not be had for the penalty, and the defendant appearing shall plead the general issue of performance, and trial shall be had the first court, unless for special reasons the court shall grant one imparlance, and if two *nibils* shall be returned, judgment of execution shall be rendered.

Fine on persons going on board the enemy's vessels, &c.

XXVII. **And be it enacted,** That if any subject or inhabitant of this state shall go on board any vessel of war or transport belonging to the enemy, or to their camp, or to any city, town, port or place, within any of the United States, in their possession, without permission in writing from the governor and the council of this state, and if any subject or inhabitant of this state shall receive any protection for himself or property from the enemy, or any one under their authority, such person, on conviction thereof in the general or any county court of this state, shall be fined by the court not exceeding the rate of ten pounds for every hundred pounds of property belonging to such person within this state; and if any person convicted of any of the offences aforesaid, shall not have property within this state valued and rated agreeable to the late assessment act at more than two hundred pounds, the court may fine such person at the rate aforesaid, and also adjudge him to be imprisoned for any term not exceeding one year, or to be whipped not exceeding thirty-nine lashes, or both, in their discretion.

Persons indicted for treason, and not to be found, to be outlawed, &c.

XXVIII. WHEREAS persons guilty of high treason may, by being out of the reach of a legal process in the common course of proceeding, evade a trial and the punishment of their crimes, **Be it enacted,** That on indictment found by the grand jury of the general court against any person for treason, the court shall immediately order *capias* to apprehend such person, directed to the sheriff of the county in which such person lived or resided, and on return by the said sheriff of the flight of such person from this state, or that he is not to be found in the county, the general court shall cause such person to be proclaimed, and solemnly called and required, in full and open court, to appear and answer to the indictment against him, and on default thereof, entered on their record, the said court shall issue a writ to the sheriff who returned the *capias*, to cause such person to be proclaimed, and solemnly called and required, at two several courts to be held for his county, in full and open court, to surrender himself to his custody, to answer to the indictment found against him; and the said sheriff shall make his return of such proclamation and default to the general court, who shall record such return and default, and thereupon proceed to adjudge such person to be outlawed, and such judgment of outlawry shall amount in law to a conviction and attainder of the person of the treason charged in the indictment, in the same manner as if the person so indicted had been found guilty thereof by a petit jury, and such person shall thereupon forfeit to the use of this state all the estate which he had at the time when the indictment shall allege his commission of the treason.

Persons not to be tried for treason unless indicted within three years, &c.

XXIX. **And be it enacted,** That no person shall be tried for any treason or misprision of treason against this state, unless the indictment be found within three years after the offence committed; and it is declared, that no person shall be convicted by a petit jury of either of the said crimes, unless by the oath of two lawful witnesses to prove each separate and distinct fact charged in the indictment as treason or misprision of treason, except the prisoner willingly, and without force or violence, confess the same in open court.

Persons who have taken the oath not obliged again to take it.

XXX. **And be it enacted,** That no person who hath already taken the said oath, or made the said declaration, shall be obliged to take or make the same, agreeable to the directions of this act, any thing herein contained to the contrary notwithstanding.

C H A P. XXI.

A supplementary ACT to the act, entitled, An act to regulate the militia.

This act has been always continued with the principal act, and with that it has expired.

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